

GENERAL INFORMATION

Subject

- Request - Vacation of a 16’ wide alley running north-south 178’ adjacent to Lots 1, 2, and 44 in the Replat part of Machen’s Second Addition.
- Location - The North-west alley between 439 & 433 W. Delaware Ave. in block bounded by Collingwood Blvd., W. Delaware Ave., Fulton, and Machen streets.
- Applicant(s) - Paul Walker Jr. & Cheryl Walker
158 Austin Street
Toledo, OH 43608

Site Description

- Zoning - Neighborhood Commercial & Single-Family Residential / CN & RS6
- Area - ± 0.065 acres
- Dimensions - ± 178’ x 16’
- Existing Use - Alley
- Proposed Use - Consolidated land

Area Description

- North - Vacant building, Sparrow’s Nest Shelter, Our Lady Holy Rosary Cathedral / CN
- South - Community Garden, Multi-Family Dwellings, Scott High School Campus / CN & RM36
- West - Commercial businesses, Restaurants, Multi-Family Dwellings, Counseling Center / CN, CO, & RM36
- East - Single-Family Dwellings, Grace Community Center / RS6 & RM36

GENERAL INFORMATION (cont'd)Parcel History

- Z-54-57 - Rezoning of Lot 44 of Machen's Second addition from "B" use and "B" height and area to "C" use and "D" height and area. (PC disapproved 04/14/1957)
- V-310-80 - Request to vacate the northern section of the north-south alley abutting Lots 1, 2 and 44 in block bounded by Delaware, Collingwood, Machen and Fulton. (PC recommended deferral of the vacation and approved a temporary closure of the alley 3/18/1981, CC approved deferral and temporary closure of the alley (3/24/81) via Ord. 168-81.)
- Z-93-82 - Rezoning of property located on the east and west sides of Collingwood Blvd between Melrose Avenue and Machen Street from C-3 commercial district to C-1 Neighborhood shopping district (PC approved 8/5/82, CC approved 8/24/82 via. Ord. 527-82)

Applicable Regulations

- Toledo Municipal Code, Part Eleven: Planning and Zoning
- Forward Toledo Comprehensive Land Use Plan

STAFF ANALYSIS

The applicant is requesting the vacation of a 16' wide alley running north-south 178' adjacent to Lots 1, 2, and 44 in the Replat part of Machen's Second Addition. The alley is located east of and parallel to Collingwood Blvd., and exits onto Delaware Ave and Machen St. To the north of the site is a vacant building, Sparrow's nest shelter, and Our lady Holy Rosary Cathedral. To the south is Scott High School and residential dwellings. To the east are residential dwellings and Grace Community center, and to the west are businesses including Black Kite Café and Olive restaurant, multi-family dwellings, and a counseling center. The applicant owns Lots 1, 2, and 44 of Machen's Second Addition, in which they operate an automotive repair shop. Lot 1 consists of a muffler shop and a warehouse building used for auto repairs. The extent of work within the warehouse is unknown, and the entrance for this facility is located in the alleyway. Lot 2 also contains a warehouse building; the use of this structure is unknown. Lot 44 is a vacant lot zoned residential on which numerous automobiles are parked illegally. The subject alley is also packed with illegally parked vehicles.

STAFF ANALYSIS

In 1957, a request for Zone change from residential to commercial at 439 Delaware, case Z-54-57, highlighted concern of detrimental impacts to the abutting residential district. The applicant of the time requested the zone change in order to build a garage for vehicle storage to support the property located west of the alley, which functioned as a non-conforming light-industrial use. The Plan Commission denied the Zone change request as it would have supported encroachment of an industrial use into the residential district.

In 1980 a request to vacate the alley, case V-310-80, resulted in a temporary closure of the alley and the construction of a fence. The temporary closure does not have a defined expiration date and is still in effect. Lots number 1, and 2 of Machen's Second addition, west of the alley, were identified as a potential "market" concept as a part of Collingwood-Delaware revitalization efforts. The Staff report discusses an illustrative plan for a "market" and the development of a parking lot in the proposed vacated alley. The plans of a market concept did not come to fruition, and a parking lot never constructed. The request to vacate the alley in 1980 was stated in the Staff report as an intention to "prevent harassment of the customers of the wholesale grocery and juvenile disturbances in the parking lot". The alley remains closed and access is restricted by illegally parked vehicles, inoperable vehicles, vehicle parts, debris, and a fence.

The department of Housing and Community Development's code enforcement team have received calls for nuisances directly relating to the use of this site. Code enforcement has issued violations for broke down inoperable and non-plated vehicles. Among the inoperable vehicles are automotive parts in disrepair. Code enforcement issued the violation January 6, 2025 to have the property cleaned up in a timely manner. Plan Commission Staff conducted a site visit on March 20, 2025 and confirms that cleanup of the site has not been attempted.

The automotive shops west of the subject alley are legal non-conforming with "grandfather" status. The alley and abutting residential property to the east appear to be used as an illegal scrap and salvage operation, and/or used to park vehicles. TMC1116.0245 *Scrap and Salvage Operations* are defined as "storage, sale, dismantling, or other processing of used, source-separated, or waste materials not intended for reuse in their original form. Typical uses include motor vehicle salvage dealers, wrecking yards, junk yards, and salvage yards, but not including Recycling Facilities". Scrap and Salvage operations are only permitted within General Industrial zoning districts with an approved Special Use Permit. There are numerous vehicles parked in the alley and on parcel #1007081 or Lot 44, which is zoned Single-Dwelling Residential (RS6). Vehicle storage is permitted only within General Industrial and Limited Industrial zoning districts. The storing of vehicles and the operations of a Scrap and Salvage yard are both prohibited in CN and RS6 zoning districts. The use of parcel #1007081, or Lot 44, as an area to park vehicles is illegal, non-conforming, and does not have grandfathered status. The applicant has requested to vacate the alley to continue the use of storing automobiles in the alley.

STAFF ANALYSIS

Staff recommends disapproval of the vacation and requests all vehicles and debris be removed from the alley and the residential zoned property, the temporary closure be expired, and the alley reopened for public use. A vacation of the alley would encourage the continued use of an illegal scrap and salvage operation and improper storage of vehicles. The site has contributed to the diminishing economic viability of the area; and has impacted the quality of life for abutting residents and Scott High School students. Furthermore, the Division of Fire prevention has objected to the proposed vacation.

Forward Toledo Comprehensive Land Use Plan

The Forward Toledo Comprehensive Land Use Plan targets this site and the surrounding area for Neighborhood Mixed-Use and Neighborhood Residential land uses. Neighborhood Mixed-Use is intended to accommodate pedestrian-oriented commercial, mixed-use residential and commercial, middle and high-density residential dwellings, institutional campuses, parks, offices, and minimally obtrusive industrial uses. Auto-oriented uses are not compatible with the Neighborhood Mixed-Use land designation. The Neighborhood Residential land use designation is intended to accommodate single-to-multi-family residential dwellings along with low-impact commercial uses that are not obtrusive to the neighborhood.

Staff recommends disapproval because the proposed vacation would encourage the encroachment of an illegal scrap and salvage operation further into a residential district. The site has diminished the quality of life for abutting residents. The proposed use of the alley does not align with the goals of the Forward Toledo Comprehensive land use plan. Additionally, the Division of Fire prevention has objected to the proposed vacation as the current status of the site could prevent fire operations. Review agencies conditions are attached as EXHIBIT "A" for informational purposes.

STAFF RECOMMENDATION

The staff recommends that the Toledo City Plan Commission recommend disapproval of V-59-25, the request for the vacation of a 16' wide alley running north-south 178' adjacent to Lots 1, 2, and 44 in the Replat part of Machen's Second Addition., to Toledo City Council for the following three (3) reasons:

1. The proposed alley vacation will encourage the continued use of an illegal scrap and salvage operation, and the storage of vehicles in a residential district.
2. The location of the proposed alley vacation has active code enforcement case; and
3. The Division of Fire Prevention objects to the proposed alley vacation.

REF: V-59-25... April 10, 2025

ALLEY VACATION
TOLEDO CITY PLAN COMMISSION
REF: V-59-25
DATE: April 10, 2025
TIME: 2:00 PM

CITY COUNCIL
ZONING AND PLANNING COMMITTEE
DATE: May 14, 2025
TIME: 4:00 P.M.

AV
Two (2) sketches follow
Exhibit "A" & "B" follow

Exhibit “A”

The following **ten (10)** conditions are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

Engineering & Construction Management

At least one catch basin exists within the area proposed to be vacated. Others may exist but cannot be seen due to parked cars. The catch basin, and any others that may exist, and the underground drainage pipe, will become owned by the private property owner through passage of the ordinance to vacate the alley.

Law Department

1. Within the limits allowed by law, the applicant shall indemnify the City of Toledo, its officials, agents or employees, from any and all claims, demands, causes of action, suits or liability in connection with the performance of any and all acts authorized or permitted under this vacation. Said indemnification language shall be contained within and evidenced by the endorsement on a certified copy of the final vacating legislation by the owner which indemnification shall be kept in the permanent file of the Clerk of Council. That a full width easement in favor of the City of Toledo is retained across, under and through said vacated area as described in Section 1 herein for the purpose of the City of Toledo’s maintaining, operating, renewing, reconstructing, and removing utility facilities. All City of Toledo facilities located within said vacated area are hereby dedicated to the City of Toledo for exclusive City of Toledo utility use only and shall not be combined with easements or rights for other utilities. The easement retained by the City of Toledo shall be primary to any other utilities located therein, and any easement retained by any other utility shall be subordinate to and subject to the easement rights of the City of Toledo. Said easement shall be permanent in nature for each utility and shall run with the land. Said easement also includes reasonable rights of egress and ingress over and through the vacated area. No fence, wall, building foundation, roof overhang, or other barrier which would impede access to the easement shall be constructed or maintained. Driveways, parking lots, walkways and other similar improvements are permitted subject to the prior written consent of the City of Toledo. The City of Toledo shall be released and held harmless for any liability, responsibility costs, or damages resulting from the City of Toledo’s removal of any barriers which impede the City of Toledo ingress or egress from the easement or which obstruct access to the utilities located within the vacated area. The City of Toledo shall have no obligation or duty to restore or compensate the barrier owner for any barrier removed in whole or in part by the City of Toledo. Any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance shall be obtained separately from each utility, as to their interest(s) only, by separate recordable instrument.

Exhibit “A” (cont’d)

Law Department (cont’d)

Further, the Owner’s’ of the vacated area shall be responsible for the relocation of any utility facilities or equipment, whether owned by a public or private utility within the vacated area or preserving access to such utility facilities. Utility facilities include conduits, cables, wires, towers, poles, sewer lines, pipelines, gas and water lines, or other equipment of any railroad or public utility, located on, over or under the portion of the vacated area. Any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance and operation of Ohio law shall be obtained separately from each utility, as to their interest(s) only. The City of Toledo shall be released and held harmless for any liability, responsibility, costs, or damages resulting from Owner’s’ construction or activities in the vacated area, that interferes with any utility easement retained as a matter of law in accord with Section 723.041 of the Ohio Revised Code.

Toledo Edison

2. Toledo Edison requests a 10’ easement in order to maintain access to its existing aerial electrical cables on the pole line in the alley.

Fire Prevention

Upon reviewing the submitted request to vacate the above mentioned alley, we have determined that by vacating this section of alley the fire dept. would loose access to the rear of the adjoining bussiness which would greatly deminish fire operation in the time of an emergency. It would be our recommendation not to vacate this alley at this time.

Division of Traffic Management

3. Within the limits allowed by law, the applicant shall indemnify the City of Toledo, its officials, agents or employees from any and all claims, demands, causes of action, suits or liability in connection with the performance of any and all acts authorized or permitted under this vacation. Said indemnification language shall be contained within the evidence by the endorsement on a certified copy of the final vacating legislation by the owner which indemnification shall be kept in the permanent file of the Clerk of Council.

The Division of Traffic Management does not object to the approval of the vacation by the Plan Commission provided the previously mentioned conditions are address to the satisfaction of this division.

Division of Streets, Bridges and Harbor

Does not object to the approval of this vacation.

Exhibit “A” (cont’d)

Columbia Gas

No comments at the time of publication.

Lucas County Solid Waste Management District

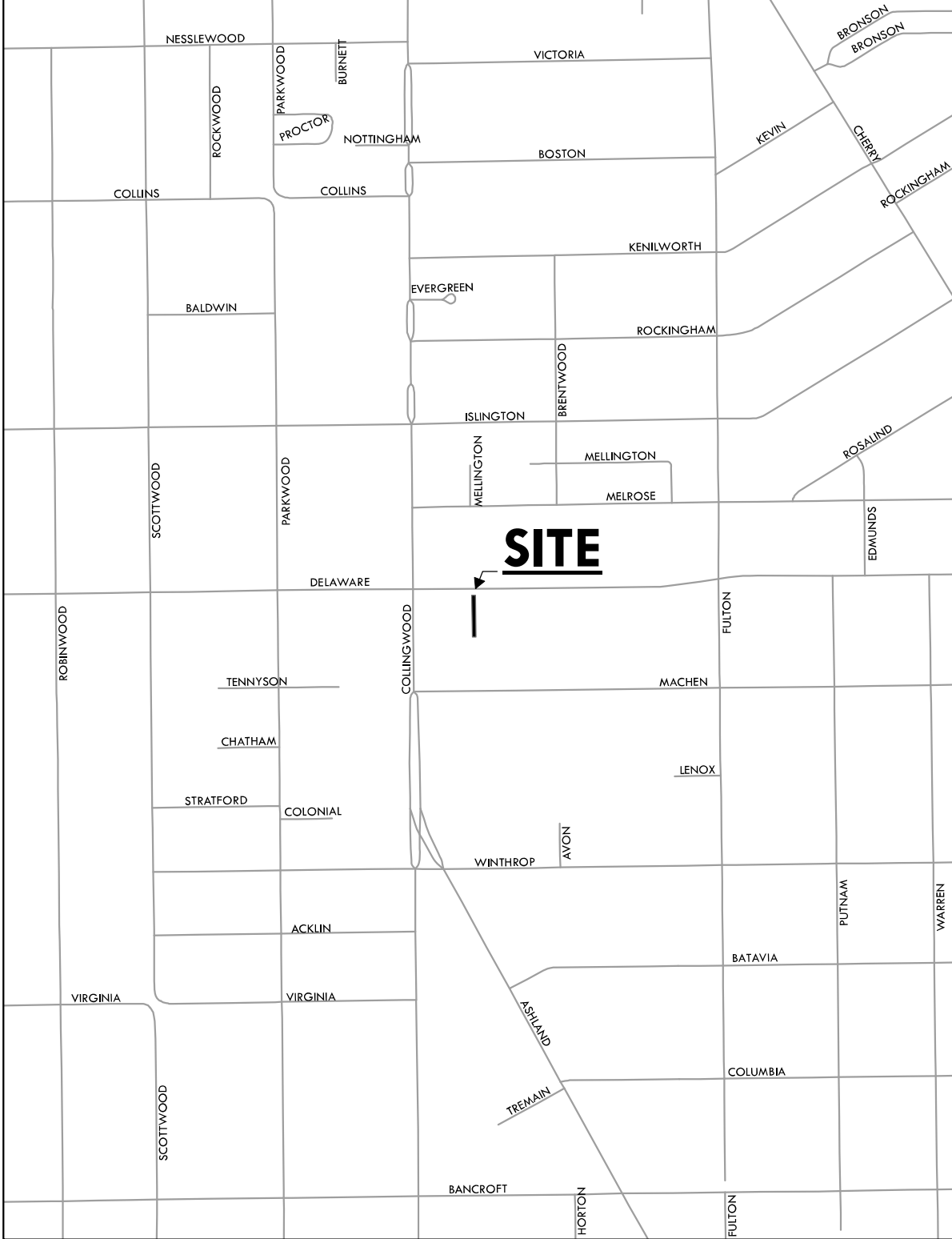
No comments at the time of publication.

Plan Commission

4. The proposed vacation cannot result in the loss of access for any abutting properties.
5. Pursuant to TMC1104.0107 – *Use Categories*; Scrap and Salvage operations are only permitted within General Industrial (IG) zoned districts with an approved special use permit. TMC1116.0245 - *Scrap and Salvage Operations* are defined as “storage, sale, dismantling, or other processing of used, source-separated, or waste materials not intended for reuse in their original form. Typical uses include motor vehicle salvage dealers, wrecking yards, junk yards, and salvage yards, but not including Recycling Facilities” **Not acceptable as existing on site. The owner shall cease operations of an illegal Scrap and Salvage, unless a Zone Change to IG and Special Use Permit are approved.**
6. Pursuant to TMC1104.0107 – *Use Categories*; Vehicle storage is only permitted within Limited Industrial (IL) and General Industrial (IG) zoning districts. **The owner shall remove all vehicles and storage from the alley and parcel # 1007081. Unless a Zone Change to IL or IG is approved; and is subjected to TMC1111.0802- Minor Site Plan Review.**

GENERAL LOCATION

V-59-25
ID 15



ZONING & LAND USE

V-59-25
ID 15

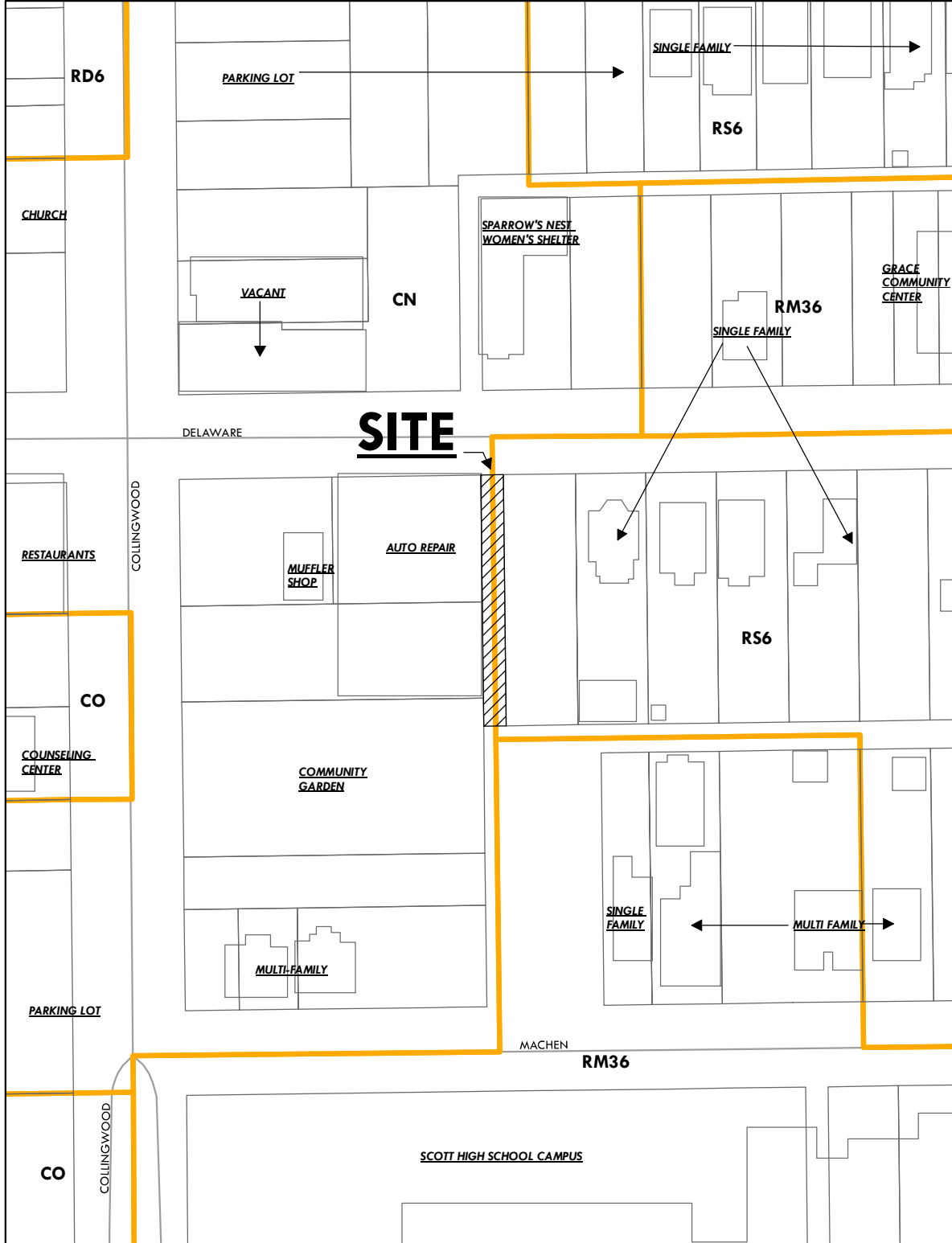


Exhibit "B"

Aerial images were obtained from the Plan Commissions archive and Google Earth.



1998



2001

Exhibit "B"



2003



2006

Exhibit "B"



2010

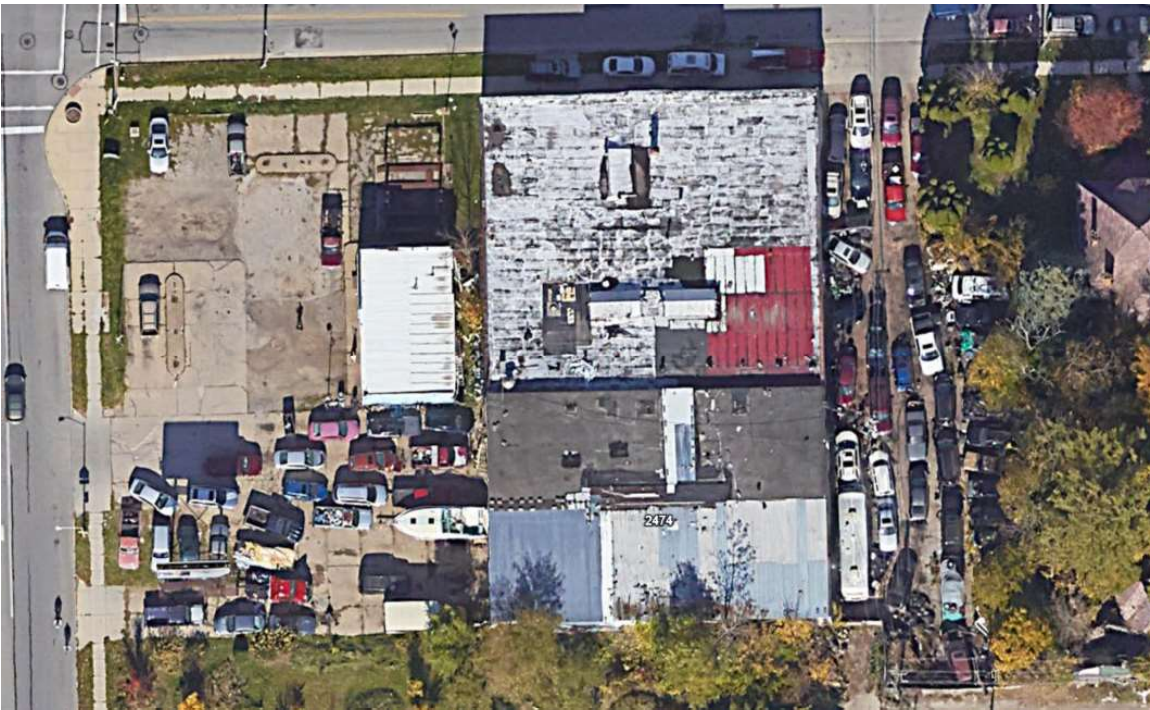


2014

Exhibit "B"



2018



2022

Exhibit "B"



2024